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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,267	04/18/2006	Alain Moussy	065691-0440	4376

22428 7590 02/06/2009  
FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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SHAMEEM, GOLAM M

ART UNIT	PAPER NUMBER
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1626

MAIL DATE	DELIVERY MODE
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02/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,267	<b>Applicant(s)</b> MOUSSY ET AL.	
	<b>Examiner</b> Golam M. M. Shameem	<b>Art Unit</b> 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/17/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Priority*

This application is a 371 of PCT/IB04/03698 10/22/2004, which claims benefit for domestic priority under 35 U.S.C. § 119(e) [to a provisional application 60/513,214 10/23/2003], is acknowledged.

### *Status of Claims*

Claims 1-16 and 23-27 are currently pending in the application. Claims 17-22 were canceled.

Receipt is acknowledged of amendment / response filed on January 16, 2009 and that has been entered.

### *Response to Election/Restriction*

In response to the restriction requirement, Applicants have elected Group I (which includes claims 1-16), drawn to a compound of the formula I **without** traverse (Response page 1), is acknowledged.

Claims 23-27 are withdrawn from further consideration pursuant to 37 C.F.R. 1.142 (b) as being drawn to a non-elected subject matter.

Applicants preserve their right to file a divisional on the non-elected subject matter.

As set forth in the restriction requirement and an election of a single compound (or set of compounds), the scope of the invention which has been examined, inclusive of the elected species is as follows:

A compound of formula (I) as shown in claim 1 wherein:

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R1, R2, R3 and R4 are as claimed,

R5 is hydrogen,

R6 is as claimed,

R7 is “

(iv) a heteroaryl<sup>1</sup> group defined as a pyridyl, pyrimidinyl, pyrazinyl, pyridazinyl, thienyl, thiazolyl, imidazolyl, pyrazolyl, pyrrolyl, furanyl, oxazolyl, isoxazolyl, triazolyl, tetrazolyl, indolyl, benzimidazole, quinolinyl group, which may additionally bear any combination, at any one ring position, of one or more substituents

” and

X is “

-NR<sup>9</sup>R<sup>10</sup>, wherein R<sup>9</sup> and/or R<sup>10</sup> are hydrogen or:

i) an alkyl<sup>1</sup> group, CF<sub>3</sub> or

ii) an aryl<sup>1</sup>, heteroaryl<sup>1</sup> or cycloalkyl group optionally substituted by a pendant basic nitrogen functionality, or

iii) a CO-R, COO-R, CON-RR' or SO<sub>2</sub>-R, where R and R' are a hydrogen, alkyl<sup>1</sup>, aryl<sup>1</sup>, or heteroaryl<sup>1</sup>, optionally substituted by a pendant basic nitrogen functionality; ”.

As a result of the election and the corresponding scope of the compound identified, claims 23-27 and the remaining subject matter of claims 1-16 are withdrawn from further consideration pursuant to 37 CFR 1.142 (b) as being drawn to non-elected inventions. The withdrawn subject matter of claims 23-27 is properly restricted as it differs materially in structure and in element from the elected subject matter supra so as to be patentably distinct therefrom.

### ***Objections***

Claims 1-16 are objected to for containing non-elected subject matter. The claims should be amended to exclude non-elected subject matter and within the scope of elected compound.

***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Golam Shameem, Ph.D. whose telephone number is (571) 272-0706. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane, can be reached at (571) 272-0699. The Unofficial fax phone number for this Group is (703) 308-7921. The Official fax phone number for this Group is (571) 273-8300.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy

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published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG  
89.

Any inquiry of a general nature or relating to the status of this application should be  
directed to the Group receptionist, whose telephone number is (571) 272-1600.

/Golam M. M. Shameem/

Primary Examiner

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Technology Center 1600

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